

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 2056 – HB 2435

April 2, 2018

**SUMMARY OF ORIGINAL BILL:** Reduces, from seven to five days, the period of time from the effective date of the structured lease agreement or the amendment to a lease making it a structured lease agreement, that a municipality must provide public notice disclosing the purpose and details of the structured lease agreement.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

IMPACT TO COMMERCE OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENT (015313):** Deletes all language after the enacting clause. Adds language to the *Convention Center and Tourism Development Financing Act of 1998* (the CCTDFA) to establish, subject to the recommendation of the Comptroller of the Treasury and approval by the State Building Commission no later than December 31, 2018, that the portion of the incremental increase in local sales and use tax revenue shall be apportioned and distributed for one qualified public use facility placed in service no later December 31, 2022, if such facility consists of a hotel with at least five hundred hotel rooms and related retail, parking, and commercial uses. Establishes that no state sales and use tax revenue shall be allocated to the municipality pursuant to this legislation. Such apportionment shall continue until the earlier of: (a) 30 years from the date it is reasonably anticipated that the facility will commence operations as a public use facility; or b) the date the cumulative amount apportioned and distributed to the municipality, with respect to such facility, equals the indebtedness of the municipality or public authority, plus interest thereon, related to the cost of the public use facility payable from such amount.

Establishes that any privilege tax levied pursuant to this legislation, on sales in business activity in a qualified public use facility and in tourist development zones, pursuant to the *Local Tourism Development Zone Business Tax Act* (the TDZBA), shall continue until the earlier of: (a) 30 years from the date it is reasonably anticipated that the facility will commence operations as a public use facility; or (b) the date the cumulative amount apportioned and distributed to the municipality equals the indebtedness of the municipality or public authority, plus interest thereon, related to the cost of the public use facility payable from such amount.

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## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Other Fiscal Impact - To the extent a qualified public use facility owned at least partially by a private entity continues receiving an allocation of local sales tax revenue under the Convention Center and Tourism Development Financing Act of 1998, which it would not have received under current law; the proposed legislation would result in a mandatory increase in local expenditures.\* The timing and extent of any such mandatory increase cannot be determined with any reasonable certainty.**

**In addition, should the respective municipality, in conjunction with the specific qualified public use facility identified in the legislation, be successful in certifying a tourist development zone under the Local Tourism Development Zone Business Tax Act (TDZBA), it will consequently seek to impose a privilege tax under the TDZBA, and therefore, will experience a permissive increase in local revenue. The extent of any additional permissive local revenue cannot be determined with any reasonable certainty.**

Assumptions for the bill as amended:

### *CCTDFA*

- According to the Department of Revenue (DOR), there are currently seven certified tourist development zones under the CCTDFA which, if a qualified public use facility were placed in service within such zones no later than December 31, 2022, any incremental increase in local sales and use tax revenue within such zones would be apportioned and distributed to the facility pursuant to this legislation, until the earlier of: (a) 30 years from the date it is reasonably anticipated that the facility will commence operations as a public use facility; or (b) the date the cumulative amount apportioned and distributed to the municipality equals the indebtedness of the municipality or public authority, plus interest thereon, related to the cost of the public use facility payable from such amount.
- Amendment 015313 effectively carves out language in the CCTDFA that, in the absence of such amendment, would have required the apportionment and distribution of such local sales tax collections to stop on the date on which the qualified public use facility ceased to be a qualified public use facility; therefore, this legislation essentially allows such taxes to be distributed and apportioned to a non-public use facility that resides inside any one of the seven existing tourist development zones, if such facility were placed into service no later than December 31, 2022, and if such facility consists of a hotel with at least five hundred rooms and related retail, parking, and commercial uses.
- It is assumed that this legislation will not directly result in incremental state and local sales tax revenue, as the public use facility would be placed into service in the absence of this legislation.
- However, pursuant to this legislation, any incremental local sales tax collections resulting from such service will be distributed to the qualified public use facility. Such

local sales tax collections would not have been received by the public use facility in the absence of this legislation, but would have been apportioned to the local government. This represents a shifting of how local option sales tax revenue is allocated, and not how much local option sales tax revenue is collected.

- Any impact on the state sales tax revenue is estimated to be not significant, as such revenue would be generated and retained by the state in the absence of this legislation.
- Due to numerous unknown factors, any impact to local government cannot be determined with any reasonable certainty.

#### *TDZBA*

- According to the DOR, there are currently no zones certified under the TDZBA.
- It is assumed that the respective local government authority or public authority will seek to seek certification of a tourist development zone, in which there will be a proposed qualified public use facility which will consist of a hotel with at least five hundred rooms and related retail, parking, and commercial uses.
- Prior to the application of any privilege tax under the TDZBA, the respective municipality will be required to seek certification of a tourist development zone, pursuant to Tenn. Code Ann. § 7-88-103(a).
- If the municipality is successful in certifying a tourist development zone, it is assumed that the local governing authority or public authority will seek by ordinance, pursuant to Tenn. Code Ann. § 67-4-3003(a)(2), to levy a privilege tax under the TDZBA. Such privilege tax cannot exceed 5 percent.
- Pursuant to Tenn. Code Ann. § 67-4-3003(b), no ordinance authorizing such privilege tax may take effect unless it is approved by a two-thirds vote of the respective municipal legislative body at two consecutive, regularly-scheduled meetings, or unless it is approved by a majority of the number of qualified voters of the municipality voting in an election on the question of whether or not the tax should be levied.
- Should a municipality, as a result of this legislation, succeed in levying a privilege tax under the TDZBA, such tax shall continue to the earlier (a) 30 years from the date it is reasonably anticipated that the facility will commence operations as a public use facility; or (b) the date the cumulative amount apportioned and distributed to the municipality equals the indebtedness of the municipality or public authority, plus interest thereon, related to the cost of the public use facility payable from such amount.
- Amendment 015313 effectively carves out language in the TDZBA that, in the absence of such amendment, would have required the apportionment and distribution of proceeds from a privilege tax levied within a tourist development zone (TDZ) to stop on the date on which the qualified public use facility ceased to be a qualified public use facility; therefore, this legislation essentially allows such tax to be collected, distributed and apportioned to a non-public use facility that resides inside any one of the seven existing TDZs, if such facility were placed into service no later than December 31, 2022, and if such facility consists of a hotel with at least five hundred rooms and related retail, parking, and commercial uses.
- Due to the unknown nature of future events, any additional permissive local revenue collected as a result of a privilege tax levied under the TDZBA cannot be determined

with any reasonable certainty, but is generally estimated to be positive for respective local government.

## **IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:**

**Other Commerce Impact - Due to numerous unknown factors including, but not limited to, the facility or facilities to which the bill as amended could apply, the timing of any applicability, and whether such facility is owned by a local government or private entity, any impact to commerce or jobs in this state cannot be determined with any reasonable certainty.**

Assumptions for the bill as amended:

- This legislation is assumed to primarily impact the application of taxes and use of revenue within an existing tourist development zone or a tourist development zone that will likely be proposed and certified in the future.
- Such use of revenue would impact a building certified as a public use facility located within any such tourist development zone.
- Due to numerous unknown factors, including, but not limited to, the facility or facilities to which the bill as amended could apply, the timing of any applicability, and whether such facility is owned by a local government or private entity, any impact to commerce or jobs in this state cannot be determined with any reasonable certainty.

*\*Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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